



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding STANMAR SERVICES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRT

Introduction

On November 14, 2018, the Tenant applied for a Dispute Resolution proceeding seeking monetary compensation for the cost of emergency repairs pursuant to Section 33 of the *Residential Tenancy Act* (the “Act”).

Both the Tenant and the Landlord attended the hearing. All in attendance provided a solemn affirmation.

The Tenant was not sure how she served the Landlord with the Notice of Hearing package or her evidence; however, the Landlord confirmed that he received this package by hand sometime in November 2018. In accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was served with the Notice of Hearing package and evidence.

The Landlord advised that he did not submit any evidence for consideration on this file.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

- Is the Tenant entitled to monetary compensation?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony

of the parties, not all details of the respective submissions and/or arguments are reproduced here.

Both parties agreed that the tenancy started on September 1, 1996. Rent is currently established at \$861.00 per month, due on the first of each month. A security deposit of \$287.50 was paid.

The Tenant advised that she phoned the Landlord multiple times on or around the summer of 2018 regarding an element on the stove that was not working. The Landlord subsequently sent in an electrician to investigate and the electrician could not get the element to work. He told the Tenant that the stove was so old that parts could not be found to fix it.

The Tenant was not sure if she made any requests in writing to the Landlord about this issue; however, when the Landlord did not take any action, she purchased a used stove on October 16, 2018 to replace the broken stove. She submitted a copy of the invoice to support the amount of money that she paid for the stove.

She advised that the Landlord never communicated with her about a solution for her old stove. As well, she stated that she did not have any permission from the Landlord to replace the old stove with a different one.

The Landlord acknowledged that the Tenant called about the broken stove in September 2018 and he sent the electrician out on or around mid-September to look at the stove. The electrician advised him that a new stove would be required so he placed a request in writing to the owner of the property. He received authorization from the owner at the beginning of October 2018 to purchase a replacement stove for the Tenant.

He stated that the Tenant was advised that she would be getting a replacement stove. He arranged with the delivery company to deliver the stove to the rental unit; however, when they attempted to deliver it, the Tenant's own stove that she purchased was already in the rental unit. She then advised the delivery people to "get lost".

Analysis

Upon consideration of the evidence before me, I have provided an outline of the

following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

Section 33 of the *Act* outlines the Landlord's and Tenant's duties when an emergency repair is required.

Emergency repairs

- 33** (1) In this section, "**emergency repairs**" means repairs that are
- (a) urgent,
 - (b) necessary for the health or safety of anyone or for the preservation or use of residential property, and
 - (c) made for the purpose of repairing
 - (i) major leaks in pipes or the roof,
 - (ii) damaged or blocked water or sewer pipes or plumbing fixtures,
 - (iii) the primary heating system,
 - (iv) damaged or defective locks that give access to a rental unit,
 - (v) the electrical systems, or
 - (vi) in prescribed circumstances, a rental unit or residential property.

I do not find that an element that is not functioning on the stove meets the requirement of being urgent, necessary for the health or safety of anyone or for the preservation or use of residential property, nor do I find that it meets any of the criteria of subsection (c). As there is no evidence before me that the issue at hand meets the requirements of this Section, I am not satisfied that this issue would fall under the grounds of compensation for an emergency repair.

However, Section 32 of the *Act* requires that the Landlord maintain the rental unit in a state of decoration and repair that complies with the health, safety, and housing standards required by law, and having regard to the age, character, and location of the rental unit, make it suitable for occupation by the Tenant.

There is no dispute that the element on the stove stopped working and that the stove should have been replaced as it was not possible to repair the issue. However, the burden of proof is on the Tenant to substantiate their claim. I do not find that the Tenant could provide accurate details with respect to the date of this issue, when she notified

the Landlord, or how much time elapsed after the Landlord was advised of this issue. Furthermore, she did not have written authorization from the Landlord to replace the stove.

On the contrary, I have testimony from the Landlord that he was notified of this issue in September 2018 and that he sent out a repair person in mid-September. Furthermore, once he was advised that the stove should be replaced, he contacted the owner about this issue, he received authorization to replace the stove, he purchased a replacement stove in October 2018 and arranged to have this stove delivered, and the Tenant was advised of this.

As I am satisfied that the Landlord took corrective action within a reasonable amount of time after being advised of a repair issue, I do not find that the Landlord breached the *Act* by not dealing with a repair issue. As such, I do not find that the Tenant has substantiated a claim that a Monetary Order is necessary to be granted in this particular instance, nor do I find that the Tenant had the authority to dispose of the Landlord's stove and replace it with another one. Consequently, I dismiss the Tenant's claims in their entirety.

Conclusion

I dismiss the Tenant's Application without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 22, 2019

Residential Tenancy Branch